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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 23

Application Number: 09/553,012
Filing Date: April 20, 2000
Appellant(s): ELLER ET AL.

Eller et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/17/2003.

A statement identifying the real party in interest is contained in the brief.

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A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 14, 16-25, 27-35, 37-41 and 55 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,980,090	Royal et al.	11/1999
6,009,409	Adler et al.	12/1999

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(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Specification

1. The disclosure is objected to because of the following informalities: The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 14, 16-25, 27-35, 37-41 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Royal, Jr et al (US 5,980,090) hereinafter Royal in view of Adler et al (IDS) (US 6,009,409).**

As to claim 14, Royal teaches a method of displaying information 10 having a plurality of displays advertising 38 (an electronic billboard as claimed) that are located on a list A, B, C and D of the map (see figure 7a); each fuel dispenser 12 having an input device or keypad 40, a card reader 41 (an information handling system as claimed) coupling via accessing a homepage for logging onto the site's asset management system 300 (see col. 8, lines 35-37). The system may control the

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advertising remotely from the advertising commercials (318) posting interface page 308, which leads to advertising or commercials (318) and provide a way to change advertising and also upload information and advertising at the convenience store or other area in the fueling environment, respectively (see figure 7B, col. 8, lines 50-59). Accordingly, a display 38 at location A corresponds to a first electronic billboard; a display 38 at location B corresponds to a second electronic billboard. Each fuel dispenser 12 having an input device or keypad 40, a card reader 41 correspond to a first and a second an information handling system as claimed. The operation display 52 and input 54 (figure 2) corresponding to the claimed a third information handling system as claimed. Royal teaches the user at the browser 25, 27 that will select a device from the list of possible devices on the site network, such as a fuel dispenser, and will connect to the HTTP server on the target device (col. 7, lines 34-37) including a map of North America (see figure 7a). Royal fails to teach "selecting, via the third information handling system, a time period for displaying the information on the selected electronic billboard; and display the information on the selected electronic billboard during the selected time period." However, Adler teaches a system which includes a time allocation controller that allocates time available in a particular advertising region in a display device of a function of one of a desired user frequency, a desired time frequency, or a desired geometry, that delivers the advertisements to remote computer for display in the advertising region according to the allocating of the time (abstract). Since Adler teaches remote computers 105a to 105n include public networks of computers via the Internet 115 (figure 1, col. 3, lines 55-57). Therefore, It would have

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been obvious to a person of ordinary skill in the art at the time of the invention to utilize the third information handling system (105a) selecting a time period (110) for displaying advertised information (205) taught by Adler on Royal's selected electronic billboard system because client would visit web site at any computers that having Internet to advertise the advertisements via Internet interface.

As to claim 16, Royal teaches the user at the Brower 25, 27 that will select a device form the list of possible devices on the site network, such as a fuel dispenser, and will connect to the HTTP server on the target device 108 (see col. 7, lines 34-37).

As to claims 17 and 55, Royal teaches a method of displaying information 10 having a plurality of displays advertising 38 (an electronic billboard as claimed) that are located on a list A, B, C and D of the map (see figure 7a); each fuel dispenser 12 having an input device or keypad 40, a card reader 41 (an information handling system as claimed) coupling via accessing a homepage for logging onto the site's asset management system 300 (see col. 8, lines 35-37). The system may control the advertising remotely from the advertising commercials (318) posting interface page 308, which leads to advertising or commercials (318) and provide a way to change advertising and also upload information and advertising at the convenience store or other area in the fueling environment, respectively (see figure 7B, col. 8, lines 50-59). Accordingly, a display 38 at location A corresponds to a first electronic billboard; a display 38 at location B corresponds to a second electronic billboard. Each fuel dispenser 12 having an input device or keypad 40, a card reader 41 correspond to a first and a second an information handling system as claimed. The operation display 52

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and input 54 (figure 2) corresponding to the claimed a third information handling system as claimed. Royal teaches the user at the browser 25, 27 that will select a device from the list of possible devices on the site network, such as a fuel dispenser, and will connect to the HTTP server on the target device (col. 7, lines 34-37) including a map of North America (see figure 7a). Royal fails to teach "selecting, via the third information handling system, a time period for displaying the information on the selected electronic billboard; and display the information on the selected electronic billboard during the selected time period." However, Adler teaches a system which includes a time allocation controller that allocates time available in a particular advertising region in a display device of a function of one of a desired user frequency, a desired time frequency, or a desired geometry, that delivers the advertisements to remote computer for display in the advertising region according to the allocating of the time (abstract). Since Adler teaches remote computers 105a to 105n include public networks of computers via the Internet 115 (figure 1, col. 3, lines 55-57). Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the third information handling system (105a) selecting a time period (110) for displaying advertised information (205) taught by Adler on Royal's selected electronic billboard system because client would visit web site at any computers that having Internet to advertise the advertisements via Internet interface.

As to claims 18 and 23, Royal teaches a method of displaying information 10 having a plurality of displays advertising 38 (an electronic billboard as claimed) that are located on a list A, B, C and D of the map (see figure 7a); each fuel dispenser 12 having

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an input device or keypad 40, a card reader 41 (an information handling system as claimed) coupling via accessing a homepage for logging onto the site's asset management system 300 (see col. 8, lines 35-37). The system may control the advertising remotely from the advertising commercials (318) posting interface page 308, which leads to advertising or commercials (318) and provide a way to change advertising and also upload information and advertising at the convenience store or other area in the fueling environment, respectively (see figure 7B, col. 8, lines 50-59). Accordingly, a display 38 at location A corresponds to a first electronic billboard; a display 38 at location B corresponds to a second electronic billboard. Each fuel dispenser 12 having an input device or keypad 40, a card reader 41 correspond to a first and a second an information handling system as claimed. The operation display 52 and input 54 (figure 2) corresponding to the claimed a third information handling system as claimed. Royal teaches the user at the browser 25, 27 that will select a device from the list of possible devices on the site network, such as a fuel dispenser, and will connect to the HTTP server on the target device (col. 7, lines 34-37) including a map of North America (see figure 7a). Royal fails to teach "selecting, via the third information handling system, a time period for displaying the information on the selected electronic billboard; and display the information on the selected electronic billboard during the selected time period; charging an amount of money for the display of the information on the selected electronic billboard." However, Adler teaches a system which includes a time allocation controller that allocates time available in a particular advertising region in a display device of a function of one of a desired user frequency, a desired time

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frequency, or a desired geometry, that delivers the advertisements to remote computer for display in the advertising region according to the allocating of the time (abstract).

Adler et al review that typically, the region provided by an Internet advertising provider is not a simple, static billboard. Current Internet technology makes possible continuous, dynamic updates to the contents of advertising regions. An important motivation for this is that providers with a high volume of users may charge higher prices for advertising region, and parcel the space between different advertisements thereby making the advertising region accessible to a larger number of advertisers. Such parceling can be accomplished by selling an advertising region that is smaller than the total area available, by displaying different advertisements to different users, by dynamically changing the advertisements seen by a given user, or by some combination of two or more of the same (column 1, lines 40-54).

Since Adler teaches remote computers 105a to 105n include public networks of computers via the Internet 115 (figure 1, col. 3, lines 55-57). Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize charging an amount of money for the display of the information on the selected electronic billboard reviewed by Adler on Royal's selected electronic billboard system because client would visit web site at any computers that having Internet to advertise their advertisements via Internet interface on the billboard.

As to claims 19, 20 and 22, Royal teaches a system for displaying information 10 having a plurality of displays advertising 38 (an electronic billboard as claimed) that are located on a list A, B, C and D of the map (see figure 7a); each fuel dispenser 12

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having an input device or keypad 40, a card reader 41 (an information handling system as claimed) coupling via accessing a homepage for logging onto the site's asset management system 300 (see col. 8, lines 35-37). The system may control the advertising remotely from the advertising commercials (318) posting interface page 308, which leads to advertising or commercials (318) and provide a way to change advertising and also upload information and advertising at the convenience store or other area in the fueling environment, respectively (see figure 7B, col. 8, lines 50-59). Accordingly, a display 38 at location A corresponds to a first electronic billboard; a display 38 at location B corresponds to a second electronic billboard. Each fuel dispenser 12 having an input device or keypad 40, a card reader 41 correspond to a first and a second an information handling system as claimed. The operation display 52 and input 54 (figure 2) corresponding to the claimed a third information handling system as claimed. Royal teaches the user at the browser 25, 27 that will select a device from the list of possible devices on the site network, such as a fuel dispenser, and will connect to the HTTP server on the target device (col. 7, lines 34-37) including a map of North America (see figure 7a). Royal fails to teach "selecting, via the third information handling system, a time period for displaying the information on the selected electronic billboard; and display the information on the selected electronic billboard during the selected time period." However, Adler teaches a system which includes a time allocation controller that allocates time available in a particular advertising region in a display device of a function of one of a desired user frequency, a desired time frequency, or a desired geometry, that delivers the advertisements to remote computer

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for display in the advertising region according to the allocating of the time (abstract).

Since Adler teaches remote computers 105a to 105n include public networks of computers via the Internet 115 (figure 1, col. 3, lines 55-57). Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the third information handling system (105a) selecting a time period (110) for displaying advertised information (205) taught by Adler on Royal's selected electronic billboard system because client would visit web site at any computers that having Internet to advertise the advertisements via Internet interface.

As to claim 21, Royal teaches the user at the Brower 25, 27 that will select a device form the list of possible devices on the site network, such as a fuel dispenser, and will connect to the HTTP server on the target device 108 (see col. 7, lines 34-37).

As to claims 24 and 25, Royal teaches a method of advertising comprising the steps of the user at the browser 25, 27 selecting a device from the list of possible devices on the site network, such as fuel dispenser, and will connect to the HTTP server on the target device 108 (see figure 5, column 7, lines 34-37);

uploading the advertising interface comprising commercial 1 "coke.mpeg", commercial 2 "Frito.mpeg" and commercial 3 "Valvoline.mpeg." at the upload interface (314) of the location store C (see figure 7B);

a consumer gas pump would view the following displays commercial 1 "coke.mpeg", commercial 2 "Frito.mpeg" and commercial 3 "Valvoline.mpeg." where the gas pump had been selected while waiting during pump gas.

Royal fails to teach "display on the selected billboard the advertising information at a selected time." However, Adler teaches a system which includes a time allocation controller that allocates time available in a particular advertising region in a display device of a function of one of a desired user frequency, a desired time frequency, or a desired geometry, that delivers the advertisements to remote computer for display in the advertising region according to the allocating of the time (abstract). Since Adler teaches remote computers 105a to 105n include public networks of computers via the Internet 115 (figure 1, col. 3, lines 55-57). Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the third information handling system (105a) selecting a time period (110) for displaying advertised information (205) taught by Adler on Royal's selected electronic billboard system because client would visit web site at any computers that having Internet to advertise the advertisements via Internet interface.

As to claims 27-35, Royal teaches a computer program product (see figure 4, column 5, line 57) having the operation display 52 and input 54 (figure 2) corresponding to the claimed receiving a first network first information via the internet 30; displaying information 10 having a plurality of displays advertising 38 that are located at A of the map corresponding to the claimed sending the first information over a second network to the first designated target display (see figure 7a) via the internet 30.

As to claims 37-41, Royal teaches inherently a computer program product for uploading the advertising or commercials 318 (content as claimed) from the operation display 52 and input 54 (figure 2) via the internet 30; displaying information 10 having a

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plurality of displays advertising device 38 that are located at A of the map corresponding to the claimed receiving a designation of a target display device to display the content (see figure 7a) via the internet 30. Royal fails to teach "receiving a designation of a time that a target display device is to display the content." However, Adler teaches a system which includes a time allocation controller that allocates time available in a particular advertising region in a display device of a function of one of a desired user frequency, a desired time frequency, or a desired geometry, that delivers the advertisements to remote computer for display in the advertising region according to the allocating of the time (abstract). Since Adler teaches remote computers 105a to 105n include public networks of computers via the Internet 115 (figure 1, col. 3, lines 55-57). Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the third information handling system (105a) selecting a time period (110) for displaying advertised information (205) taught by Adler on Royal's selected electronic billboard system because client would visit web site at any computers that having Internet to advertise the advertisements via Internet interface.

(11) Response to Argument

Response to Argument 1

Appellant states that "none of alleged "hyperlinks" the Examiner is referring to in the Specification include such appended symbols." In response, Examiner disagrees with this situation because the Specification discloses www.billboard401.com at figure 4, page 9, line 7, line 12, line 14-16, and ebillboard.net at figure 4, page 9, line 11. It is

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noted that MPEP § 608.01 states that the embedded hyperlinks and/or other forms of browser-executable code are impermissible and require deletion.

Appellant states that recited [last paragraph of page 4]. In response, Examiner disagrees with this situation because the attempt to incorporate central subject matter into the patent application by reference to a hyperlink and/or other form of browser-executable code is considered to be an improper incorporation by reference. Although, the patent application has not been made the requirements of 35 U.S.C. 112, first paragraph, the embedded hyperlinks and/or other forms of browser-executable code, recited in the specification www.billboard401.com at figure 4, page 9, line 7, line 12, line 14-16, and ebillboard.net at figure 4, page 9, line 11, and line 2 and line 9 of claim 24, are impermissible and require deletion.

Response to Argument 2

Appellant state that claim 14 recites "selecting, via the third information handling system, a time period for displaying the information on the selected electronic billboard; and displaying the information on the selected electronic billboard during the selected time period." In response, Examiner disagrees with this situation because Adler teaches a function of at least one of a desired user frequency, a desired time frequency, or a desired geometry for the each of advertisements 355, 360 (col. 6, lines 23-25), advertisements 355, 360 to advertising region 205 for display with display screen 200 according to allocation of the time (col. 6, lines 28-30).

Appellant state that claim 14 recites "there are first and second billboards, one of these billboard is selected for uploading of display information, and then a time period

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for displaying such information is selected for the selected electronic billboard, and the information is then displayed on the selected electronic billboard during the selected time period." This argument is not persuasive because Royal teaches a system (fig. 2) associated with a method, the system (fig. 2) comprising a first electronic billboard (a first display 38, fig. 2) at a first location (various local, col. 5, line 47), a second billboard (a second display 38, fig. 2) at a second location (various local, col. 5, line 47). Royal teaches information dissemination and advertising are preferably performed as services provided by the various local and remote servers. The browser software 36 for each client preferably has the ability to request services either locally or remotely, via the Internet or similar network (col. 5, lines 45-50).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include the function of selecting a time period (displaying advertisement by schedule) taught by Adler in Royal's third information handling system because provide the viewer with a visual feedback to verify a desired user frequency for their advertisements (please see col. 3, lines 55-57 of Adler for additional motivation).

Appellant states that claims 17 and 55 recites "the examiner continues to try to link the list noted in step of Figure 5 with the map of North America depicted in Figure 7, but has provided no evidence that these two are linked in any way, page 7, 2nd paragraph." In response, Examiner disagrees with this situation because Royal teaches the backroom server 18 as a central control-type server capable of providing the client PC browsers 25, 27 with additional information relating to the equipment and providing links to available servers and other compliant devices in the fueling environment (col. 7, lines 15-19). Royal also teaches information dissemination and advertising are preferably performed as services provided by the various local and remote servers. The browser software 36 for each client preferably has the ability to request services either locally or remotely, via the Internet or similar network (col. 5, lines 45-50).

Appellant states that claims 18 and 23 recite "step of charging an amount of money of the display information on the selected electronic billboard." This argument is not persuasive because Adler reviews in the background of the invention charge higher prices for advertising region (col. 1, line 45).

Appellant states that claims 19, 20, and 22 must be interpreted and examined. In response, Examiner disagrees because claims 19, 20, and 22 have been examined in page 8 of the last final office action.

Appellant states that claim 24 recites "ebillboard.net". This argument is not persuasive because reasons are set forth in response to argument 1 above. These arguments are not persuasive because Royal teaches a homepage at a site's uniform resource locator address (block 100) (fig. 5, col. 7, lines 20-22).

Appellant states that claim 25 recites "a consumer viewing the selected billboard is informed of the availability of additional information concerning the advertiser at the web site dedicated to the selected billboard." In response, Examiner disagrees because Royal teaches a gas pump consumer would view the following displays commercial 1 "coke.mpeg", commercial 2 "Frito.mpeg" and commercial 3 "Valvoline.mpeg." where the gas pump display had been selected to display the advertisements (figure 7B).

Appellant state that claim 27 recites "sending the first information over a second network to the first designated target display, wherein the first information is accompanied with a time when the first information is to be displayed on the first designated target display." In response, Examiner disagrees because Royal teaches a first network (a remoter server 1 (26), fig. 2), first information (commercial 1, fig. 7B), a first target display (col. 5, lines 45-50); the sales information (block 306) (fig. 7B) having a date 3/14/97 inherently including an expired time of the items on sale.

Appellant state that "claim 32, the Examiner has not specifically addressed this claim limitation." In response, regarding to claim 32, Royal teaches a first network (a remoter server 1 (26), fig. 2), first information (commercial 1, fig. 7B), a first target display (col. 5, lines 45-50).

Appellant state that "claim 33, the Examiner has not expressed the claim limitation where the second network recited in the sending step of claim 27 is part of the Internet." In response, regarding to claim 33, Royal teaches a first network (a remoter server 1 (26), fig. 2) and a remote server 2 (26) (a second network, fig. 2) coupling to the Internet 30 (fig. 2).

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Appellant state that "claim 34, the Examiner has not expressed the claim limitation." In response, regarding to claim 34, Royal teaches a first network (a remoter server 1 (26), fig. 2), second information (commercial 2, fig. 7B), a second target display (col. 5, lines 45-50).

Appellant state that "claim 40, neither Royal nor Adler, nor their combination, teaches or suggests the steps of outputting information on whether the target display is available to display the content, permitting a selection of the target display device if it is available to display the content; and preventing a selection of the target display device if it is not available to display the content." In response, regarding to claim 40, Royal teaches a system (figure 2) associated with a computer readable medium, a system comprising a target display 38 (fig. 2), a information, a content (commercial, fig. 7B), whether the target display device is available to display the content, permitting a selection of the target display device if it is available to display the content, and preventing a selection of the target display device if it is not available to display the content (user selects device from the list of possible devices on site network (block 108, fig. 5, col. 7, lines 34-37).

Appellant states that claim 41 recited in [lines 3-10 of claim 41]. In response, regarding to claim 40, Royal teaches a system (figure 2) associated with a computer readable medium, a system comprising a target display 38 (fig. 2), a information, a content (commercial, fig. 7B), whether the target display device is available to display the content, permitting a selection of the target display device if it is available to display the content, and preventing a selection of the target display device if it is not available to

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display the content (user selects device from the list of possible devices on site network (block 108, fig. 5, col. 7, lines 34-37).

Royal teaches the sales information (block 306) (fig. 7B) having a date 3/14/97 inherently including an expired time of the items on sale.

Adler also teaches a schedule for advertisements (see abstract), the schedule includes the data and time for advertisements.

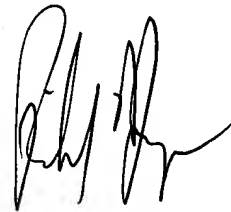
For these reasons, the rejections based on Royal and Adler have been maintained.

Respectfully submitted

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KN

February 5, 2004



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